Hoslan bin Hussin v Majlis Agama Islam Wilayah Persekutuan

FEDERAL COURT (PUTRAJAYA) — CIVIL APPLICATION NO 08(I)-516–11 OF 2011(W)
ZULKEFLI CJ (MALAYA), SURIYADI FCJ AND ZALEHA ZAHARI JCA
5 APRIL 2012

Civil Procedure — Contempt of court — Contempt proceedings — Power of court to punish contempt — Applicant charged with contempt in the face of court after making unwarranted remarks against bench and throwing his shoes towards bench — Whether elements of contempt fully set out for applicant to show cause — Whether applicant/contemnor given opportunity of being heard — Sentence — Whether custodial sentence should be meted out against applicant/contemnor to reflect gravity of offence committed by him — Federal Constitution art 126 — Courts of Judicature Act 1964 s 13

While the applicant was the Imam of the Ar-Rahimah mosque he was allowed to occupy the housing quarters on the respondent's land ('the land'). However, when the services of the applicant as Imam were terminated by the respondent he was served with a notice to deliver vacant possession of the land. The respondent then applied for and obtained a court order for the possession of the land. The applicant appealed to the Court of Appeal against the decision of the High Court to give vacant possession of the land to the respondent but the Court of Appeal dismissed the appeal. The applicant then filed an application for leave to appeal to this court against the decision of the Court of Appeal. The respondent raised a preliminary objection to the leave application. The respondent submitted that the applicant's motion papers were not in order and that the applicant had failed to comply with the procedural rule relating to the filing of the leave application. After having heard the submissions of the respondent and the applicant, this court allowed the preliminary objection of the respondent and dismissed the applicant's leave application with no order as to costs. As soon as the decision of this court was delivered, the applicant had made certain unwarranted remarks against the bench and had thrown his shoes towards the bench. Although the applicant had clearly committed contempt in the face of the court, this court did not proceed with immediate contempt proceedings against the applicant. Instead, this court issued a show cause letter to the applicant as to why he should not be committed for contempt in the face of the court for his conduct. At the hearing of the contempt proceedings, the charge that constituted contempt in the face of the court was read to the applicant. The applicant gave an unsworn statement in his explanations to the charge. As explanation, the applicant stated, inter alia, that he was disappointed when his leave application was dismissed without an opportunity

for him to fully ventilate his case. The applicant also expressed regret over the incident and asked for forgiveness. In his plea of mitigation the applicant, a 46 year-old married man with seven children, pleaded that he had acted on the spur of the moment and that in the circumstances the court should not impose a custodial sentence against him. The Attorney General and the Malaysian Bar Council took the view that a deterrent custodial sentence should be meted out against the applicant/contemnor to reflect the gravity of the offence committed by him.

Held, finding applicant guilty of contempt and sentencing him to a one-year term of imprisonment:

(1) Contempt in the face of the court may arise from any act, any conduct, any slander, any contemptuous utterance and any act of disobedience to a court order. It is settled law that the power of this court to punish any contempt of itself, which is enshrined in art 126 of the Federal Constitution and s 13 of the Courts of Judicature 1964, should be exercise sparingly. It is the judgment of this court that what was of paramount importance in contempt of court proceedings was the fact that the alleged contemnor was given the opportunity of being heard before he was punished and that the elements of contempt were fully set out for him to show cause. In the present case, after the charge framed against him was read to the applicant, as the alleged contemnor, and he understood the same, the court asked him to give explanations, which he gave in the form of an unsworn statement (see paras 2, 4–8).

(2) After having heard and studied the applicant's explanations to the show cause letter and the charge framed against him, it was found that the applicant had failed to give sufficient explanations. He was thus found guilty for the offence of contempt in the face of the court (see para 9)

(3) Upon due consideration of the plea of mitigation made by the applicant and his counsel and the submission on sentencing by the AG and the bar council, this court found that the appropriate sentence in the circumstances of this case was an imprisonment term of one year. In the present case, the contemnor had clearly scandalised the court by his conduct and disorderly behaviour. The law states that one should not take the law into one's hands. A scurrilous attack on the presiding judges to show his frustration and disgust at the decision which was unfavourable to him was clearly an affront to the impartiality of the judges of the apex court and to the judiciary as an institution. As such, it was the considered view of this court that only a stiff custodial sentence meted out on the contemnor would redeem the dignity of this honourable court (see paras 14, 16–17).

(4) It was further emphasised that the sentence meted out in this case was not

done for personal interest but to protect and preserve the power, respect and dignity of this honourable apex court (see para 18).

[Bahasa Malaysia summary

Ketika pemohon menjadi Imam Masjid Ar-Rahimah, dia telah dibenarkan untuk menduduki kuarters perumahan di tanah responden ('tanah'). Walau bagaimanapun, apabila perkhidmatan pemohon sebagai imam ditamatkan oleh responden dia telah diserahkan dengan notis penyerahan pemilikan kosong ke atas tanah tersebut. Responden kemudiannya telah memohon dan mendapat perintah mahkamah untuk memiliki tanah tersebut. Pemohon merayu kepada Mahkamah Rayuan terhadap keputusan Mahkamah Tinggi untuk memberi milikan kosong tanah kepada responden tetapi Mahkamah Rayuan telah menolak rayuan tersebut. Pemohon memfailkan permohonan untuk mendapatkan kebenaran untuk merayu kepada mahkamah ini terhadap keputusan Mahkamah Rayuan. Responden membangkitkan bantahan awal permohonan kebenaran. Responden menghujahkan bahawa kertas usul pemohon tidak teratur dan bahawa pemohon telah gagal untuk mematuhi peraturan prosedur berkaitan dengan pemfailan permohonan kebenaran. Selepas mendengar hujah-hujah responden dan pemohon, mahkamah ini membenarkan bantahan awal responden dan menolak permohonan kebenaran pemohon tanpa perintah bagi kos. Apabila keputusan mahkamah ini dibacakan, pemohon telah membuat kenyataan tertentu yang tidak munasabah terhadap Anggota Kehakiman dan telah melemparkan kasutnya ke arah Anggota Kehakiman. Walaupun pemohon telah jelas melakukan penghinaan di mahkamah, mahkamah tidak meneruskan dengan prosiding menghina mahkamah secara serta-merta terhadap pemohon. Sebaliknya, mahkamah ini mengeluarkan surat tunjuk sebab kepada pemohon tentang mengapa dia tidak patut didakwa menghina mahkamah atas kelakuannya. Ketika pendengaran prosiding menghina mahkamah, tuduhan yang merupakan penghinaan ke atas mahkamah dibacakan kepada pemohon. Pemohon memberi kenyataan tidak bersumpah dalam penjelasannya ke atas tuduhan. Sebagai penjelasan, pemohon menyatakan, antara lain, bahawa dia kecewa apabila permohonan kebenarannya ditolak tanpa peluang untuk dia sepenuhnya memventilasi kesnya. Pemohon juga melahirkan rasa kesalnya berhubung kejadian tersebut dan memohon maaf. Dalam rayuan pengurangan pemohon, lelaki berusia 46 tahun yang telah berumahtangga dengan tujuh orang anak, mengaku bahawa dia telah bertindak secara tiba-tiba dan bahawa dalam hal keadaan tersebut, mahkamah tidak sepatutnya mengenakan hukuman penjara terhadapnya. Peguam Negara dan Majlis Peguam Malaysia berpandangan bahawa hukuman penjara perlu dikenakan terhadap pemohon/penghina tersebut sebagai mencerminkan tahap keseriusan kesalahan yang dilakukan olehnya.

Diputuskan, mendapati pemohon bersalah melakukan penghinaan dan menjatuhkan hukuman satu tahun penjara:

(1) Penghinaan mahkamah boleh timbul daripada apa-apa perbuatan, apa-apa kelakuan, sebarang fitnah, apa-apa lafaz menghina dan apa-apa perbuatan ketidakpatuhan perintah mahkamah. Adalah undang-undang tetap bahawa kuasa mahkamah untuk menghukum mana-mana penghinaan terhadapnya, yang termaktub dalam perkara 126 Perlembagaan Persekutuan dan s 13 Akta Mahkamah Kehakiman 1964, seharusnya dijalankan dengan berhati-hati. Penghakiman mahkamah adalah perkara yang penting dalam prosiding menghina mahkamah iaitu hakikat bahawa penghina yang didakwa telah diberikan peluang untuk didengar sebelum dia dihukum dan bahawa unsur-unsur penghinaan telah dibentangkan sepenuhnya untuk memintanya menunjukkan sebab. Dalam kes ini, selepas tuduhan yang dikenakan terhadapnya dibacakan kepada pemohon, sebagai penghina yang didakwa, dan dia memahaminya, mahkamah memintanya memberikan penjelasan, di mana dia memberikannya dalam bentuk pernyataan tidak bersumpah (lihat perenggan 2, 4–8).

(2) Setelah mendengar dan mengkaji penjelasan pemohon dalam surat tunjuk sebab dan tuduhan yang dikenakan terhadapnya, didapati bahawa pemohon telah gagal untuk memberikan penjelasan yang mencukupi. Dia dengan itu didapati bersalah atas kesalahan penghinaan mahkamah (lihat perenggan 9)

(3) Apabila pertimbangan wajar bagi rayuan pengurangan dibuat oleh pemohon dan peguambelanya dan hujahan bagi hukuman oleh peguam negara dan Majlis Peguam, mahkamah mendapati bahawa hukuman yang sesuai dalam hal keadaan kes ini adalah penjara satu tahun. Dalam kes ini, penghina jelas melakukan skandal ke atas mahkamah dengan tingkah laku dan kelakuan tidak senonoh. Undang-undang menyatakan bahawa seseorang itu tidak boleh mengambil undang-undang di tangannya sendiri. Serangan keji kepada hakim-hakim yang mempengerusikan perbicaraan tersebut untuk menunjukkan kekecewaannya dan meluat pada keputusan yang tidak memihak kepadanya adalah jelas satu penghinaan kepada kesaksamaan hakim-hakim mahkamah tertinggi dan badan kehakiman sebagai sebuah institusi. Oleh itu, adalah pandangan munasabah mahkamah ini bahawa hanya hukuman berat penjara yang dikenakan ke atas penghina akan menebus maruah mahkamah yang mulia ini (lihat perenggan 14, 16–17).

(4) Ia seterusnya ditekankan bahawa hukuman yang dijatuhkan dalam kes ini tidak dijalankan demi kepentingan peribadi tetapi untuk melindungi dan mengekalkan kuasa, kehormatan dan maruah mahkamah tertinggi yang mulia ini (lihat perenggan 18).]

Notes

For cases on contempt proceedings, see 2(1) *Mallal's Digest* (4th Ed, 2010 Reissue) paras 1964–1966.

Cases referred to

Joseph Orakwue Izuaora v R [1953] AC 327 (refd)
R v Davison (1821) 4B & Ald 329 (refd)

Legislation referred to

Courts of Judicature Act 1964 s 13
Federal Constitution arts 10(2), 126
Rules of the High Court 1980 O 89

Appeal from: Civil Appeal No W–01(1M)(NCV)-426 of 2011 (Court of Appeal, Putrajaya).

Karpal Singh (Karpal Singh & Co) for the applicant/contemnor.
Zulkifli bin Che Yong (Zulkifli Yong Azmi & Co) for the respondent.

Zulkefli CJ (Malaya) (delivering judgment of the court):

[1] This is a contempt proceeding instituted by this court on its own motion against the applicant, Hoslan bin Hussin. It is necessary at the outset to set out the background facts of relevance prior to the institution of this contempt proceeding against the applicant and they are as follows:

(a) in Originating Summons No S-21NCVC-129 of 2011 ('the OS application') filed before the High Court at Kuala Lumpur, the respondent Majlis Agama Islam Wilayah Persekutuan ('MAIWP') as the plaintiff obtained an order for possession of land under O 89 of the Rules of the High Court 1980 on 23 June 2011 against the applicant as the defendant. The applicant was required to vacate the housing quarters on the said land provided by MAIWP for him to stay while holding the post of an *imam* and a notice to deliver vacant possession dated 29 September 2011 was sent to him;

(b) the applicant at the hearing of the OS application before the High Court did not file any affidavit in reply but only submitted orally before the court. He was not represented by counsel;

(c) the applicant was appointed by the respondent as the *imam* of the Ar-Rahimah Mosque, Kampung Pandan, Kuala Lumpur between the years 2007–2008. The service of the applicant as the *imam* was later terminated by the respondent;

(d) the applicant had never challenged the termination of his service as the

imam by the respondent at any of the court having such jurisdiction either before the civil court or the Shariah Court;

(e) the applicant appealed to the Court of Appeal against the decision of the High Court in the OS application giving vacant possession of the housing quarters to the respondent. The Court of Appeal dismissed the applicant's appeal with no order as to costs;

(f) the applicant filed an application for leave to appeal before the Federal Court against the decision of the Court of Appeal dismissing his appeal. The applicant filed by way of a notice with various documents attached to it but without a supporting affidavit;

(g) at the outset of the hearing of the applicant's leave application before this court on 22 February 2012, learned counsel for the respondent raised a preliminary objection that the motion papers of the applicant were not in order and there was non-compliance with the rule of procedure relating to the filing of leave application to appeal before this court;

(h) having heard the submissions of learned counsel for the respondent and the reply by the applicant, this court allowed the preliminary objection of the respondent. The applicant's leave application was therefore dismissed with no order as to costs;

(i) as soon as the decision of this court was delivered the applicant was seen to have voiced his dissatisfaction by making unwarranted remarks against the bench followed by his act of throwing his pair of shoes towards the bench, one of which hit the shoulder of the deputy registrar on duty who was seated in front and below the bench of this court;

(j) this court having noted the sudden change of behaviour of the applicant directed the policeman on duty at the court to restrain the applicant but it took the policeman quite some time to bring the applicant under control. It must be mentioned here that there were other cases fixed for hearing before the court on that day and were to be heard after the disposal of the applicant's case;

(k) we were aware that the applicant had already committed the act of contempt in the face of the court when he made the unwarranted remarks and throwing his shoes towards the bench;

(l) notwithstanding that the applicant had clearly committed contempt in the face of the court, we were of the view it was not appropriate at that point of time to immediately proceed with the contempt proceeding against the applicant. We noted that the applicant was restless and not in control of himself to face the contempt proceeding. We had to adjourn and stood down the hearing of other civil applications fixed for that morning in order to allow the court room to be placed back in order by removing the applicant out of the court room;

(m) on 5 March 2012 as a presiding member panel of the Federal Court which heard and dismissed the applicant's case on 22 February 2012 directed the deputy registrar of the Federal Court to issue a show cause letter to the applicant why he should not be committed for contempt in the face of the court over his conduct and act of throwing his shoes towards the bench.

For completeness we reproduce in full the said show cause letter as follows:

5 March 2012

Encik Hoslan bin Hussin

B-0-2, PPR Cochrane Perkasa

Jalan Nakhoda Yusof

55100 KUALA LUMPUR

NOTIS TUNJUK SEBAB:

MAHKAMAH PERSEKUTUAN PERMOHONAN SIVIL NO. 08-516-11/2011(W)

(Mahkamah Rayuan Rayuan Sivil No.: W-01- (IM)(NCVC)-426-2011)

Haji Hoslan Bin Hussin … Pemohon

Lwn.

Majlis Agama Islam Wilayah Persekutuan … Responden

Adalah saya diarahkan oleh YAA Hakim Besar Malaya untuk membawa perhatian tuan berkenaan perkara di atas dan pada kejadian ketika perbicaraan di Mahkamah Persekutuan pada 22 Februari 2012. Kejadian yang dimaksudkan adalah seperti berikut:

(i) Pada 22 Februari 2012 iaitu pada jam 9.00 pagi, tuan berada di Mahkamah Persekutuan untuk menghadiri perbicaraan kes 08-516-11/2011(W) Haji Hoslan bin Hussin lwn Majlis Agama Islam Wilayah Persekutuan, yang melibatkan tuan sebagai Pemohon dalam permohonan ini.

(ii) Setelah kes tuan dipanggil di hadapan panel yang dianggotai oleh YAA Tan Sri Dato' Zulkefli bin Ahmad Makinudin, YA Datuk Suriyadi bin Halim Omar dan YA Datin Paduka Zaleha binti Zahari pada jam 10.00 pagi, peguam bagi pihak responden telah mengemukakan hujahan bantahan awal terhadap permohonan tuan kepada Mahkamah dan diikuti dengan Hujahan Balas oleh tuan pada jam 10.10 pagi.

(iii) Setelah mendengar hujahan kedua-dua belah pihak, Mahkamah telah membuat dan membacakan keputusannya menolak permohonan tuan dan seterusnya tuan telah bertindak membaling sepasang selipar yang dipakai oleh tuan di dalam Mahkamah ke arah panel hakim dan salah satu selipar tersebut kena pada seorang Timbalan Pendaftar Mahkamah Persekutuan yang bertugas pada ketika itu.

2. Adalah didapati bahawa tindakan tuan adalah suatu tindakan yang menghina Mahkamah. Tuan adalah dituduh seperti berikut:

> Bahawa kamu, Hoslan bin Hussin (660103-08-6171), pada 22 Februari 2012 pada jam 10.15 pagi hingga jam 10.30 pagi di dalam Mahkamah Terbuka 1, Mahkamah Persekutuan Malaysia, Aras 2, Istana Kehakiman, Presint 3, di negeri Wilayah Persekutuan Putrajaya, telah bertindak menghina Mahkamah dengan membaling sepasang selipar ke arah panel Hakim ketika Mahkamah sedang bersidang dan dengan demikian melakukan suatu kesalahan menghina Mahkamah yang boleh dihukum mengikut undang-undang,

3. Atas pertuduhan di atas, tuan diminta menghadirkan diri ke Mahkamah Persekutuan yang akan bersidang di Mahkamah Terbuka 1, Istana kehakiman di Putrajaya pada 8 Mac 2012 (Khamis) pada jam 9.00 pagi untuk tunjuk sebab mengapa Mahkamah tidak boleh mengambil tindakan terhadap tuan atas kesalahan menghina Mahkamah.

Sekian, terima kasih.

'BERKHIDMAT UNTUK NEGARA'

Saya yang menurut perintah,

t.t.

(JUMIRAH BINTI MARJUKI)

Timbalan Pendaftar

Mahkamah Persekutuan

PUTRAJAYA

(n) essentially in the said show cause letter dated 5 March 2012 it was brought to the attention of the applicant the shoes throwing incident that took place on 22 February 2012 together with the charge framed against him. The applicant was asked to show cause why he should not be committed for contempt in the face of the court and to appear before this court on 8 March 2012 at 9am for the contempt proceeding to be instituted against him.

[2] On the contempt proceedings to be taken against the applicant as the contemnor, we are of the view that the circumstances and categories of facts which may arise and which may constitute contempt in the face of the court in a particular case are never closed. Contempt in the face of the court may arise from any act, any conduct, any slander, any contemptuous utterance and any act of disobedience to a court order. Any of these acts in varying degrees that affects the administration of justice or may impede the fair trial or bringing the court into disrepute whether for the time being pending in any court can be deemed to be contempt in the face of the court. It has been said that there is no

A rigid formula as to what constitutes contempt in the face of the court. Lord Tucker on this point in the case of *Joseph Orakwue lzuaora v R* [1953] AC 327 at p 336 had this to say:

> It is not possible to particularise the acts which can or cannot constitute contempt
B in the face of the court.

[3] In any event, it is our view that in order to constitute contempt in the face of the court the words or acts must interfere or tend to interfere with the course
C of justice. To constitute contempt in the face of the court it appears unnecessary that the act of contempt should take place wholly or in part in a court room itself nor does it seem to be necessary that all the circumstances should be within the personal knowledge of the judicial officers dealing with the contempt. We are also of the view that it is for the court to consider and decide
D whether it is imperative to invoke the summary procedure of contempt proceedings against the alleged contemnor immediately after having taken cognisance of the act committed or adjourned the contempt proceedings to a later date. There may be circumstances wherein it may not be suitable and appropriate for the contempt proceedings to be proceeded forthwith against
E the alleged contemnor immediately after the act was committed.

[4] It is settled law that the court will not readily as a matter of course exercise its power of summary punishment for the contempt in the face of the court and it has been reiterated time and again that the power should be exercised
F sparingly. However this must not be taken to mean that in a case which a strong unrebutted case exists, the court will invariably decline to exercise jurisdiction and mete out justice accordingly. This power is emphatic and imperative. Abbot CJ in *R v Davison* (1821) 4B & Ald 329 at p 333 on this point, inter alia, stated:

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> It is utterly impossible that the law can be (properly) administered if those who are charged with the duty of administering it, have no power to prevent instances of indecorum from occurring in their presence. That power is vested in judges not for their personal protection but for that of the public. And a judge will depart from his
H bounden duty if he forbears to use it when occasion arises which call for its existence.

[5] As regards the power of this court to punish any contempt of itself such power is enshrined in art 126 of the Federal Constitution and s 13 of the Courts of Judicature Act 1964 both of which provide that 'The Federal Court,
I the Court of Appeal and the High Court shall have the power to punish any contempt of itself'. Article 10(2) of the Federal Constitution provides that Parliament may impose any restriction by law relating to contempt of court. So far, no special law on contempt ofcourt has been enacted under the said art 10(2).

[6] It is our judgment what is of paramount importance in a contempt of court proceedings is that the alleged contemnor be given the opportunity of being heard before he is punished and that the elements of contempt are fully set out for him to show cause. The alleged contemnor shall therefore give explanations to the court and that in our view will tantamount to show cause. The alleged contemnor may choose to give explanations by way of evidence on oath and be cross-examined or he can even give an unsworn statement or alternatively remain silent.

[7] At the outset of the hearing of the contempt proceedings in the present case we informed the applicant, as the alleged contemnor, that this court was proceeding with the contempt proceeding in a summary manner on the basis that the court found prima facie that his conduct and the act as framed in the charge constitute contempt exfacie or contempt in the face of the court. The charge was read to him. After the charge against the applicant was read which he understood, the court asked him to give explanations why action could not be taken against him for contempt in the face of the court.

[8] The applicant gave an unsworn statement in his explanations to the show cause letter issued against him and towards the charge framed. The applicant expressed his regret over the incident and asked for forgiveness. He stated amongst others that he was disappointed over the result of his case being dismissed by the court without giving him the opportunity of fully ventilating his case.

[9] Having heard and studied the explanations given by the applicant to the show cause letter and the charge framed against him, we found that he had failed to give sufficient explanations. We therefore found him guilty for the offence of contempt in the face of the court.

[10] Before the court proceeded to mete out sentence against the applicant as the contemnor, we allowed him and his counsel to put forward his plea of mitigation for the consideration of the court. Mr Karpal Singh who appeared for the applicant at the stage of the contempt proceedings submitted on behalf of the applicant that the emotional angle must be considered and the court must act with circumspection. The applicant had acted on the spur of the moment. He regretted what had happened. The applicant is forty 46 years old, married and has seven children. He is currently working with the Department of Environment. Learned counsel for the applicant impressed upon this court not to impose a custodial sentence and ought to seriously consider a reprimand to serve the ends of justice. The applicant was thereafter asked whether he wished to add further to the submission made by his counsel. He merely added

by stating that he was really confused over the condu of the proceedings before this court and again asked for forgiveness over the shoes throwing incident that had taken place.

[11] Senior federal counsel, Puan Suzana Atan appearing for the attorney general whom we had earlier informed to appear in the contempt proceeding submitted that the court should pass a deterrent sentence to reflect the gravity of the offence committed by the applicant. The act of the applicant affects the administration of the justice and has brought ridicule to this court. A custodial sentence is warranted in this case considering the fact that the applicant as the contemnor is a public servant.

[12] Mr Arthur Wang, appearing for the Malaysian Bar Council submitted that while the bar held that leniency should be granted in appropriate circumstances, in the present case however the act of throwing shoes by the contemnor towards the bench of the Federal Court being the apex court of the land was not one of them. The Malaysia Bar Council took the view for the present case a deterrent custodial sentence should be meted out against the contemnor.

[13] We then adjourned the proceedings for half an hour with a view to giving consideration of the plea of mitigation of the contemnor before passing sentence.

[14] Upon due consideration of the plea of mitigation made by learned counsel for the applicant and the applicant himself and having heard the submission on sentencing by learned counsel appearing on behalf of the attorney general and learned counsel appearing for the Malaysian Bar Council, we found that the appropriate sentence in the circumstances of this case to be passed on the applicant as the contemnor was an imprisonment term of one year. We therefore sentenced the contemnor to serve a sentence of one year imprisonment.

[15] In passing sentence we had taken into consideration of the fact that contempt in the face of the court that had been committed by the contemnor before this court is a very serious offence and an affront to the administration of the justice system. The conduct or act of any person found to be in contempt of court is a matter which at all costs should not be left unchecked and unpunished. Such act or conduct must not be allowed to reach a level that it may undermine the authority of the court and lower the dignity of the court in the eyes of the public. Any criticism levelled against the judge or the court's judgment must be within the limits of reasonable courtesy and good faith. The decision or order made by a court of competent jurisdiction must be accepted and respected until such decision or order is set aside.

[16] In the present case the contemnor had clearly scandalised the court by his conduct and disorderly behaviour. A scurrilous attack on the presiding judges to show his frustration and disgust at the decision which was unfavourable to him, was clearly an affront to the impartiality of the judges of the apex court and to the judiciary as an institution. Such a serious and deliberate attack clearly had undermined the dignity and authority of this court which cannot, and must not, be condoned.

[17] It is our considered view that only a stiff custodial sentence meted out on the contemnor would redeem the dignity of this honourable apex court. We are aware of the fact that before the incident in the present case there have been many other cases of contempt of court, some committed by prominent lawyers, directors of companies and politicians, but such a severe sentence was not imposed. It must be stated here that the act of throwing objects like shoes has always been viewed upon as being obnoxious, demeaning and degrading when hurled at a human being and worst still thrown before a panel of judges of the apex court of the nation. Even with an apology tendered by the contemnor we do not think that it had lessened the gravity of the offence. On the submission of learned counsel for the contemnor that the emotional angle must be considered and the court must act with circumspection, we are of the view, indeed the offence committed by many of our prisoners is the result of their inability to control their emotion, frustration and anger because of unforeseen circumstances and not because they are born criminals. It must also not be forgotten the law states that one should not take the law into one's hands.

[18] Finally we would emphasise here that in taking the contempt proceedings and meting out the sentence of one year imprisonment on the contemnor, we are not doing it for personal interest, but to protect and preserve the power, respect and dignity of this honourable apex court. The one year sentence of imprisonment should be a period of self-evaluation and soul-searching for the contemnor over the contemptuous act committed by him. We sympathise with his wife and seven young children but the law has to take its course.

Applicant found guilty of contempt and sentenced to one-year term of imprisonment.

Reported by Kohila Nesan